IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO. 4 OF 2006

SHRI HONORATO RODRIGUES AND ANR., ...Petitioners

Versus

EVA GOMES E CORREIA AND 4 ORS., ...Respondents

Mr. V. A. Lawande, Advocate for the Petitioners.
Mr. G. Shirodkar, Advocate for R.1 to 3.
Mrs. L.Dharwadkar,aga For R-4 & 5

Coram:- A. P. LAVANDE, J.

Date:- 20th April, 2006

P.C.:

By this revision application, the petitioners take exception to the Order dated 11th October, 2005 allowing the appeal by setting aside the Order dated 15.12.2003 passed by the trial Court dismissing the application filed by the plaintiffs for condonation of delay and setting aside the Order of dismissal of Regular Civil Suit No.221/2000. According to Mr. Lawande, the appellate Court has exercised jurisdiction illegally. The appellate Court has not considered the materials placed on record by the petitioners. It is clearly established that the respondents No.1, 2 and 3 had not made out any case for condonation of delay and for setting aside the dismissal of the suit.

2. Mr. Shirodkar, learned counsel appearing for the Respondents No.1 to 3 submits that the appellate Court has considered the materials on record and passed the impugned order.

3. I have considered the submissions made by the learned counsel. Since by the impugned order the appellate court has condoned the delay and set aside the order of dismissal thereby giving opportunity to the

plaintiffs to prove their case, I am not inclined to interfere with the impugned order in the exercise of revisional jurisdiction. However, considering the facts and circumstances of the case, it is considered necessary to award costs in favour of the petitioners. The respondents No.1, 2 and 3 are directed to pay costs of Rs.5000/- to the petitioners within a period of four weeks from today. The costs shall be deposited in the trial Court and upon deposit being made, the same shall be paid to the petitioners.

4. The revision application is dismissed, subject to payment of costs as ordered above. The Revision Application stands disposed of in the aforesaid terms.

A. P. LAVANDE, J.

sl.